



March 9, 2000

Mr. Steven D. Monté  
Assistant City Attorney  
Police Department  
Police and courts Building  
Dallas, Texas 75201

OR2000-0946

Dear Mr. Monté :

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 133236.

The Dallas Police Department (the "department") received a request for several categories of information pertaining to three particular police officers. You have released most of the requested information. However, you state that within the responsive information is an internal affairs complaint which discloses juvenile criminal conduct that took place on October 3, 1992. You claim that these specific documents are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.101 encompasses confidentiality provisions such as those found in the Family Code.

Prior to its repeal by the Seventy-fourth Legislature, section 51.14(d) of the Family Code provided for the confidentiality of juvenile law enforcement records.<sup>1</sup> Law enforcement records pertaining to conduct occurring before January 1, 1996 are governed by the former section 51.14(d), which was continued in effect for that purpose. Act of May 27, 1995, 74th Leg., R.S., ch. 262, § 100, 1995 Tex. Gen. Laws 2517, 2591 (Vernon). After a review of the documents, we conclude that the Trespass Warning document is the only document that is a law enforcement record pertaining to juvenile conduct. Therefore, section 51.14(d) is applicable only to this document. Section 51.14(d) provides in pertinent part:

(d) Except as provided by Article 15.27, Code of Criminal Procedure, and except for files and records relating to a charge for which a child is

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<sup>1</sup>We note that the Seventy-fourth Legislature repealed section 51.14 of the Family Code and replaced it with section 58.007 of the Family Code. We note also that the Seventy-fifth Legislature amended section 58.007 of the Family Code.

transferred under section 54.02 of this code to a criminal court for prosecution, the law-enforcement files and records [of a child] are not open to public inspection nor may their contents be disclosed to the public, but inspection of the files and records is permitted by:

- (1) a juvenile court having the child before it in any proceeding;
- (2) an attorney for a party to the proceeding; and
- (3) law-enforcement officers when necessary for the discharge of their official duties.

In this instance, it does not appear, nor do you indicate, that the Trespass Warning document relates to charges for which the department transferred the juvenile under section 54.02 of the Family Code<sup>2</sup> to a criminal court for prosecution, nor that article 15.27 of the Code of Criminal Procedure<sup>3</sup> applies. Moreover, none of the exceptions to former section 51.14(d) appears to apply to the requestor. *See* Act of May 22, 1993, 73d Leg., R.S., ch. 461, § 3, 1993 Tex. Gen. Laws 1850, 1852 (repealed 1995) (formerly Fam. Code § 51.14(d) (1), (2), (3)). Accordingly we conclude that the department may withhold only the Trespass Warning document in its entirety under section 552.101 of the Government Code as information deemed confidential by law.

The remaining documents do not constitute juvenile law enforcement records. These documents appear to represent an administrative investigation of a complaint against the officers involved in the incident at issue. As these documents are not juvenile law enforcement records, they do not fall within the purview of the former section 51.14 of the Family Code, and thus these documents are not excepted from public disclosure under section 552.101 of the Government Code. However, these documents contain the name of the juvenile given the trespass warning. Therefore, in order to ensure the juvenile's right to privacy as contemplated by section 51.14(d) of the Family Code, the juvenile's name must be redacted from these documents prior to their release. The remainder of the documents must be released.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

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<sup>2</sup>Act of May 25, 1973, 63d Leg., R.S., ch. 544, § 1, 1973 Tex. Gen. Laws 1460, 1476-77, *amended* by Act of May 19, 1975, 64<sup>th</sup> Leg., R.S., ch. 693, §§ 15-16, 1975 Tex. Gen. Laws 2152, 2156-57 (adding subsets. (m),(j), (k), (l)), *amended* by Act of May 8, 1987, 70<sup>th</sup> Leg., R.S., ch. 140, §§ 1-3, 1987 Tex. Gen. Laws 309 (amending subsecs. (a), (h), (j)).

<sup>3</sup>Act of May 22, 1993, 73d Leg., R.S., ch. 461, § 1, 1993 Tex. Gen. Laws 1850-5.1.

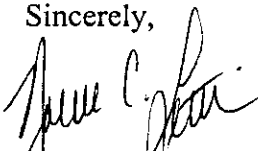
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Noelle C. Letteri  
Assistant Attorney General  
Open Records Division

ncl/nc

Ref: ID# 133236

Encl. Submitted documents

cc: Mr. Stephen Karnes  
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(w/o enclosures)